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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,002	10/01/2003	Sunny K. Yee	200207281-1	7239
22879 7590 03/29/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528			EXAMINER HILLERY, NATHAN	
			ART UNIT 2176	PAPER NUMBER
			NOTIFICATION DATE 03/29/2010	DELIVERY MODE ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUNNY K. YEE and BRIAN JAMES DEHAMER

Appeal 2009-005181
Application 10/677,002
Technology Center 2100

Decided: March 25, 2010

Before HOWARD B. BLANKENSHIP, CAROLYN D. THOMAS, and
DEBRA K. STEPHENS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-27, which are all the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Invention

Appellants' invention relates to an architecture for providing Web applications with information localized to the target audience. *See Spec.* ¶ [0003].

Representative Claim

1. A system comprising:
a controller generator that is adapted to provide an application with a controller

that receives requests for data from users and responds to the requests by obtaining requested data; and

a page localization generator that is adapted to select a localized page based on at least one locale parameter.

Prior Art

Parasnis	2001/0044809 A1	Nov. 22, 2001
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Examiner's Rejections

Claims 1-7 and 15-23 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.¹

Claims 1-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Parasnis.

¹ The Examiner expressly withdraws (Ans. 2) the § 101 rejection directed to claims 8-14.

ANALYSIS -- § 101

“The four categories [of § 101] together describe the exclusive reach of patentable subject matter. If a claim covers material not found in any of the four statutory categories, that claim falls outside the plainly expressed scope of § 101 even if the subject matter is otherwise new and useful.” *In re Nuijten*, 500 F.3d 1346, 1354 (Fed. Cir. 2007).

The Examiner finds that claims 1-7 and 15-23 are directed to software per se, and are therefore not directed to patent eligible subject matter. Ans. 3.

While the Examiner’s reasoning in the Answer appears to represent a shift from that in the Final Rejection, Appellants had the opportunity and right to file a reply brief to demonstrate why the Examiner’s position in the Answer is unfounded. Appellants did file the Reply Brief, but appear to address only the § 102 rejection.

Claim 1 recites a “system” that comprises a “controller generator” and a “page localization generator.” Appellants tell us that the “controller generator” is illustrated by “web presentation architecture” (WPA) 100 (Fig. 2; ¶ [0016]). App. Br. 3 (Summary of Claimed Subject Matter). The Specification at paragraph [0016] states that the WPA “may be adapted to execute on a processor-based device such as a computer system or the like.” The Specification also teaches (¶ [0010]) that WPA 100 “may be configured with a variety of object-oriented programming languages” and may be designed to be platform-independent. The “page localization generator” is described by the “localization manager 106” (App. Br. 3), which is part of WPA 100 (Fig. 2).

While Appellants' Appeal Brief (at page 3) suggests that a "system" might be a "computer system," a "computer system" is not recited in claim 1. In view of Appellants' disclosure, the "system" of claim 1 could also represent an architectural or a software "system." Claim 1 may be read, under a broad but reasonable interpretation, as reciting a computer program that is not tied to a particular machine -- computer software per se or a computer listing per se. *See* MPEP § 2106.01, Heading I (8th ed., Rev. 7, Jul. 2008) ("USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material.").

We are therefore not persuaded by Appellants that claim 1 is directed to patent eligible subject matter. We sustain the § 101 rejection of claim 1. Because Appellants have not addressed why any of the rejected claims might represent more than software per se, claims 2-7 and 15-23 fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).²

Claim Groupings

Based on Appellants' arguments (which are more than claim language repetition) in the Appeal Brief, we will decide the appeal as to the § 102

² To the extent that the remarks in the Appeal Brief might be construed as arguments for separate patentability, we observe that Appellants point to similar support in the Specification for the subject matter of claim 1 and independent claim 15. *See* App. Br. 3-4. For the subject matter of independent claim 18, Appellants point to logic but not to a "machine readable medium" in the Specification. *See id.* at 4. Claim 18 recites that the "program" comprises a "machine readable medium," which covers paper -- e.g., paper that contains a computer program listing.

rejection on the basis of claims 1, 2, 3, 4, 5, 7, 12, and 13. *See* 37 C.F.R. § 41.37(c)(1)(vii).

FINDINGS OF FACT

Parasnis

Parasnis describes rendering a localized version of an HTML page in a user's browser. An HTML document includes placeholder values for text, graphic, and media objects that are rendered in a specified language that is selected by the user. An appropriate set of localized strings in the specified language is placed in a global.js (reference) file. The placeholder values in the HTML document are replaced with localized objects based on name-value pairs in the global.js file that match placeholder values to content. As a result, objects localized to the specified language are rendered, thus conveying content in the specified language to the user's browser. ¶¶ [0035]-[0036], [0038]; Figs. 4-6.

PRINCIPLES OF LAW

Claim Interpretation

The *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997) (citations omitted); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). Our reviewing court has repeatedly warned against confining the claims to specific

embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

Anticipation

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984).

ANALYSIS -- § 102

Claim 1

According to Appellants, Parasnis discloses that localized objects replace placeholder variables in a document. When such a document is opened in a browser, the placeholder variables are replaced with their associated localized objects during a pre-rendering operation. Thus, according to Appellants, Parasnis uses a single set of markup language documents for all locales, and then replaces variables in those documents with objects. Appellants conclude that the invention disclosed in the reference does not select a “localized page.” App. Br. 10-11.

However, we agree with the Examiner that instant claim 1 does not require selecting some “localized page” that is pre-existing and complete with respect to “localized” content. In particular, “to select a localized page based on at least one locale parameter” does not distinguish over selecting a template document and the appropriate localized objects in the pre-rendering operation described by Parasnis. The claim does not specify what might comprise a “localized page,” but only that it is to be selected based on “at

least one locale parameter,” which the Examiner finds to be the language selected by the user. Further, as the Examiner finds (Ans. 10-11), Parasnis discloses a plurality of documents (e.g., Figs. 2, 3, 5, 6), each of which can be considered a “localized page” whether in pre-rendered or in final form.

Claims 2-5

Appellants’ arguments in support of claims 2 through 5 are based on how the claims are thought to further describe the “locale parameter” of base claim 1. Claim 2, for example, recites “[t]he system set forth in claim 1, wherein the locale parameter comprises a language identifier.”

Any parameter used in the selection of a “localized page” is put to the same use, and serves the same purpose, as the “locale” parameter in base claim 1. The difference between how the respective claimed “locale” parameters may be named might represent some distinction to the human mind but represents no more than nonfunctional descriptive material in the “system” of claim 1. Even assuming that claim 1 requires some computer operation, as suggested by Appellants in the § 101 rejection response, how the data might be characterized does not functionally change the “computer.” The *content* of non-functional descriptive material is not entitled to weight in the patentability analysis. *See Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005) (informative), *aff’d*, No. 06-1003 (Fed. Cir. June 12, 2006) (Rule 36) (“wellness-related” data in databases and communicated on distributed network did not functionally change either the data storage system or the communication system used in the claimed method). *See also Ex parte Nehls*, 88 USPQ2d 1883, 1887-90 (BPAI 2008) (precedential) (discussing non-functional descriptive material).

We are thus not persuaded that any of claims 2 through 5, which differ from anticipated claim 1 only in descriptive material that is not entitled to patentable weight, distinguishes over Parasnis.

Claim 7

Appellants submit that the Examiner uses an HTML page in Parasnis as corresponding to both the “model” and the “view” in claim 7. App. Br. 14. However, the Examiner makes clear that for purposes of claim 7 the “model” reads on the HTML page with placeholders and the “view” reads on the rendered page. Ans. 6-7, 13.

We are not persuaded of error in the Examiner’s reading of claim 7 on Parasnis.

Claim 12

Appellants argue that Parasnis does not disclose providing a “filename format” having a “basename” and a “locale-identifying extension” to the “basename.” Appellants attempt to distinguish the claim from the filename formats, basename, and extensions that the Examiner points out in the reference.

However, claim 12 recites “providing” a filename format that, according to the terms of the claim, serves no purpose other than being “provided.” As such, similar to the analysis of claims 2 through 5, and even though a computer may be required in the method of claim 12, mere provision of a filename format that is put to no use does not result in any functional change with respect to the “computer.” The descriptive material of the “filename format” of claim 12 is not entitled to patentable weight and

thus cannot serve to distinguish over the filename format in the reference.
Appellants have not demonstrated error in the § 102 rejection of claim 12.

Claim 13

Claim 13 recites that providing the page localization manager of base claim 8 includes providing a “layout mapping” that identifies a locale-version of a layout for the requested page from a plurality of localized layouts.

The rejection refers to block 158 (Fig. 4) and paragraph [0036] of Parasnis. Ans. 8. The Examiner’s responsive arguments refer to Figures 5 and 6, and to “Style.css” associated with a particular GLOBALJS, with English or German representing localized layouts (¶ [0055]). Ans. 14.

Appellants respond in turn that Figures 5 and 6 of Parasnis illustrate the same layout. Appellants submit that as illustrated in Figures 5 and 6, the same stylesheet (Style.css) is used in both the English and German contexts. Reply Br. 5-6.

While the statement of the rejection is not clear in what is deemed to be the “layout mapping” in Parasnis, we conclude from the responsive arguments at page 14 of the Answer that the stylesheet in the reference is a “layout mapping” as claimed, with “localized layouts” described in paragraph [0055].

However, as Appellants point out in the Reply Brief at pages 5 and 6, Parasnis at paragraphs [0064] and [0065] indicates that the same stylesheet is used for the English and the German localized versions, with appropriate text (English or German) retrieved for rendering the localized page. In any event, the rejection fails to identify a “layout mapping” that identifies a

locale-version *of a layout* for the requested page from a plurality of localized layouts.

We are therefore persuaded of error in the finding of anticipation with respect to claim 13. Claim 14 incorporates the limitations of claim 13. As Appellants note, claim 23 contains language similar to that of claim 13 and is rejected on the same rationale.

Conclusion

In view of the foregoing, we sustain the § 102(b) rejection of claims 1-12, 15-22, and 24-27. We do not sustain the § 102(b) rejection of claims 13, 14, and 23.

DECISION

The rejection of claims 1-7 and 15-23 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is affirmed.

The rejection of claims 1-27 under 35 U.S.C. § 102(b) as being anticipated by Parasnis is affirmed with respect to claims 1-12, 15-22, and 24-27 but reversed with respect to claims 13, 14, and 23.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED-IN-PART

Appeal 2009-005181
Application 10/677,002

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